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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,127	05/09/2001	Toru Sanefuji	208300US0	2671

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EXAMINER

AHMED, SHEeba

ART UNIT

PAPER NUMBER

1773

DATE MAILED: 08/12/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

AS-3

<b>Offic Action Summary</b>	Application No.	Applicant(s)	
	09/851,127	SANEFUJI ET AL.	
Examiner		Art Unit	
Sheeba Ahmed		1773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-5 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>1 and 2</u> .	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Claim Objections***

1. Claim 1 recites that the film has a "variance in thickness along the TD direction".

The Examiner **requests** amending the above language to recite that the film has a "variance in thickness along the transverse direction" to clarify the claim language.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baughman et al. (US 5,197,242) in view of Kausch et al. (US 6,113,811).

Baughman et al. disclose dual-pane thermal windows with a liquid crystal shade and having polarizer sheets therein (See Abstract and Column 11, lines 14-20).

Baughman et al. do not disclose that the polarizer is a polyvinyl alcohol film having a thickness of 20 to 150 microns and having a variation in thickness in the transverse direction of 0.5 microns/mm or less. However, Kausch et al. disclose a polarizing film made of polyvinyl alcohol (***corresponding to the polyvinyl alcohol film of claims 1 or the polarization film of claims 4 or 5***) (Column 3, lines 27-28), which can be made by a variety of techniques that are capable of producing a uniform thickness (***thus indicating that the surface of the film has no variation in thickness and therefore***

***meeting the limitation that the film has a variance in thickness in the transverse direction of 0.5 microns/mm or less) of 25 to 500 microns (thus meeting the thickness limitations as recited in claims 1 and 3)*** (Column 4, lines 21-39).

Accordingly, it would have been obvious to one having ordinary skill in the art to replace the polarizer disclosed by Baughman et al. with the polarizing film disclosed by Kausch et al. given that the polarizing film disclosed by Kausch et al. provides improved glare reduction and increased optical contrast. With regards to the limitation that the film has a thickness of 2m or more, the Examiner takes the position that for a 2m or larger window the polarizer must inherently be 2m or larger. Furthermore, the determination of patentability for product claims containing process limitations is based on the product itself and not on the method of production. If the product is the same or obvious form a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. *In re Thorpe*, 227 USPQ 964, 966 (Fed. Cir. 1985) and also see MPEP 2113. In this case, the product (i.e., the polyvinyl alcohol film) is obvious despite the process limitations of making the film by casting on a drum.

### ***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheeba Ahmed whose telephone number is (703)305-0594. The examiner can normally be reached on Mon-Fri 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Thibodeau can be reached on (703)308-2367. The fax phone

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numbers for the organization where this application or proceeding is assigned are  
(703)305-5408 for regular communications and (703)305-3599 for After Final  
communications.

  
Sheeba Ahmed  
August 4, 2002

  
Paul Thibodeau  
Supervisory Patent Examiner  
Technology Center 1700